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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,354	03/22/2008	Steven Hepworth	12283/15451	4653
7590 Audrey A. Millemann Weintraub Genshlea Chediak 400 Capitol Mall, 11th Floor Sacramento, CA 95814			EXAMINER QUINN, COLLEEN M	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 09/14/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/594,354

**Applicant(s)**

HEPWORTH ET AL.

**Examiner**

COLLEEN M. QUINN

**Art Unit**

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 26 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "work support members" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It appears the work support members may already be in the figures, but are not labeled as such. Appropriate correction is required.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the claim recites the limitation "the supporting surface" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 16, the it is unclear how the applicant is using "extendable" since it does not appear from the disclosure that the work support members are "extendable" which would suggest they are telescoping, or can slide out in length along the apparatus or something of that nature. Instead it appears the work support members (14 ?) are moveable, or tillable or something along those lines.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 9, 12-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaffel (US 3,830,340). Schaffel discloses a gripping apparatus (figure 1) comprising two or more gripping members (17) each mounted on support means (3)

at a first end thereof (figure 1), and pivoting means (7) connecting the support means at a location offset from the gripping members (figure 1), such that the gripping members are moved towards each other to exert a grip on a workpiece positioned between the same as the distal ends of the support means are moved apart (figure 1 & col. 3, lines 11-16) by exerting a force on the support means or apparatus to position the support means; the distal ends of the support means are in contact with a supporting surface at least during the gripping of the workpiece (figure 3); resistance means (spiked ends of 4) are provided on the distal end or ends of at least one of the support means to engage a supporting surface and restrict the movement apart of the support means (figure 1); the resistance means including pointed protrusion ends for spiking/gripping into a supporting surface; the support means includes one or more support members (3,4) in the form of any or any combination of tubes, struts, and/or other resilient members (figure 1); one or more work support members (16) are provided adjacent the gripping members capable of supporting the workpiece when not gripped by the gripping members; the one or more work support members are pivotable/tiltable (at 1; figure 1); the gripping members are detachably connected (18) to the support means (figures 1 & 2); the gripping members and support means are provided with attachment means and/or complimentary receiving means (pivot pins & holes) to allow the gripping members to be connected to the support means (figures 1 & 2) and wherein the attachment means and receiving means include nuts & bolts (figures 1 & 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Telban (US 3,887,036). Schaffel does not disclose the pivoting means to be angled downwardly when the distal ends of the support means are spread apart, the gripping means to be separated when the apparatus is collapsed and lifted or the gripping members to grip a workpiece under the weight of the apparatus.

However, Telban teaches a gripping apparatus (figures 1-3) comprising support means (10), pivoting means (13-15), gripping means (16) and work support members (11-12) wherein the pivoting means includes pivotally connected members (13a; figures 1) which are angled downwardly towards the distal ends of the support means at least when the gripping members are in a closed condition (figures 1-3); wherein the gripping members move apart from each other when the apparatus is collapsed and lifted from the supporting surface (figure 1); wherein the apparatus can be lifted to move apart the gripping members, without removal from a supporting surface (such as moving just the one shorter leg in a situation as in figure 3), to allow the insertion of a workpiece between the gripping members and wherein the workpiece being able to be gripped by the gripping members under the weight of the apparatus and/or workpiece (figures 1-3),

providing an apparatus that can be easily manipulated to move the support means or gripping members as needed on site.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the apparatus of Schaffel with the pivoting means and clamping arrangement of Telban in order to provide a more versatile and easily manipulated apparatus for holding work pieces.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Wiehe, Jr. (US 5,289,897). Schaffel does not disclose the pivoting means to include a plate to apply external force to press the gripping means toward each other.

However, Wiehe, Jr. teaches a gripping apparatus (figure 2) comprising support members (30a-c, 32a-c) having gripping members (38) at the upper ends and pivoting means (40a, b, 48a,b) below on the gripping members on the support means (figures 2) such that the pivoting means includes a means to allow a user to apply an external force on the gripping members towards each other wherein the means for allowing applying external force is plate (40a, b) angled towards the gripping members (figure 2).

Therefore it would have been obvious to one of ordinary skill in the art to provide the apparatus of Schaffel with pivoting means that include an angled plate as taught by Wiehe, Jr. allowing for a user to apply external force on the gripping apparatus and therefore the gripping members in order to provide for greater stabilization while working.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Steffe (US 4,564,178) Schaffel does not disclose movement means on the distal ends of the support means.

However, Steffe disclose a workpiece gripping apparatus (figure 1) comprising pivotally connected support means (10, 12) with gripping means (37, 38, 40) atop the support means and wherein the distal ends of the support means are provided with movement means (figures 1 & 2) to allow movement of the same along a supporting surface; wherein the movement means are wheels/rollers (20).

Therefore, it would have been obvious to one of ordinary skill in the art to provide one more of the distal ends of the support means of Schaffel with movement means/wheels as taught by Steffe in order to provide a more easily transportable gripping apparatus, readily moved from site to site as needed.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Hill (US 5,628,382). Schaffel does not teach tubular connections for the attachment means.

However, Hill teaches a gripping apparatus (figure 1), comprising support means (14), pivoting means (46), gripping means (figures 4-6) and work support members (24); wherein the gripping members are detachable connected to the support means via tubular attachment means (18) for receiving the upper ends of the support means



(figures 4-6) and connecting together concentrically (figures 4-6), providing an easily attachable/detachable gripping member arrangement for a gripping apparatus.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the gripping apparatus of Schaffel with tubular concentrically connecting gripping members as taught by Hill in order to provide gripping members than can easily be attached or detached as needed or for swapping out parts.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Lange (US 2,812,219). Schaffel does not disclose the attachment means to alternatively comprise a dovetail joint connection for easily sliding on and off the gripping members.

However, Lange teaches a work piece holding apparatus (figure 1) comprising support means (9) and members for holding the workpiece (5, 15) wherein the members comprise a dovetail joint (figures 1, 2 & 4) for sliding the members in and out for easy replacement and assembly.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the gripping apparatus of Schaffel with dovetail joint connections as taught by Lange for the gripping members in order to provide a connection that allows for easy replacement and assembly of the different gripping members.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view alone with Official

Notice. Although Schaffel does not particularly disclose different shape or material options for the gripping members, Schaffel does teach that the gripping members' faces can be shaped differently depending on the purpose of use (col. 4, lines 15-19). The Examiner takes Official Notice and cites MPEP 2144.04 IV. *B. Changes in Shape* and 2144.07 *Art Recognized Suitability for an Intended Purpose* and asserts that it would have been obvious to one of ordinary skill in the art to use an appropriately shaped gripping member for different jobs (i.e.: flat shaped gripping faces for square beams, arcuate faces for pipes, logs, etc. etc) and made of appropriately strong material since one would find it obvious that different shapes and different materials would be required for different jobs- obviously a gripping member for a lightweight 2X4 wooden beam would not be appropriate for a 200lb or heavier log that needed to be held in the gripping apparatus.

Therefore, the Examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art to provide the gripping apparatus of Schaffel with differently shaped and constructed gripping members for different jobs and holding different work pieces.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel as applied to claims 1, 3, 9, 12-18 and 21 above, and further in view of Rich (US 2,230,015). Schaffel does not disclose the pivoting member to alternatively comprise a linkage arrangement with slot and locking member.

However, Rich teaches a collapsible stand apparatus (figures 1) comprises support means (9, 17) connected by pivot means (10 and 20-27), wherein the pivoting means includes a first member (23) connected to first support means (17) via locking means (20,25, 26, 27), a second member (10) connected to second support means (9), the first member pivotally connected to the second member (figures 1 & 2), wherein the locking means comprises a slot (25) in the first member (figures 1 & 2) and a locking member (27) capable of extending through and sliding along the slot (figures 1& 2), for locking at least part of the support means in a particular position (figures 1), providing an easily operated lockable pivoting means for spacing and holding the support means in position.

Therefore it would have been obvious to one of ordinary skill in the art to provide the support means of Schaffel with a slot and locking linkage as taught by Rich as an alternative pivoting means that easily pivots the support means securely holds them in position by its locking means.

Claims 25-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaffel and Rich as applied to claims 1, 3, 9, 12-18, 21, 23 and 24 above, and further in view of Alexander (US 4,238,001). Schaffel does not disclose the top portions of the support means which include gripping members, are hingedly separated from the bottom portions, which include the pivoting means, by hingeing means to allow for independent movement of the gripping means from the support means.

However, Alexander teaches a gripping apparatus (figure 1) comprising support means (21, 23, 25, 27) and gripping means (31, 53, 55) wherein the top portions of the support means which include gripping members (figures 1 & 3), are hingedly separated from the bottom portions (figures 1 & 3), by hingeing means (figures 3, 4 & 6), wherein when at least part of the support means is held in one position, the hingeing means allows the gripping members to move independently without moving the lower end of the support means; and allowing opposite faces to move independently (figures 1-6) from open to closed positions.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the gripping apparatus of Schaffel with a hinged connection as taught by Alexander between the upper portion of the support means with the gripping members and the lower portion with the pivoting means so that the portions could be adjusted independently.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLLEEN M. QUINN whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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